

**REMARKS**

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority and receipt of the certified priority document. Applicants also thank the Examiner for considering all of the references submitted in the Information Disclosure of August 21, 2003, and for indicating that the drawings filed with the application are accepted.

Claims 1-10 are all the claims pending in the application. Claims 11-19 have been added. Claims 1, 2, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Claps (U.S. Patent 5,890,855). Claims 3-6, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Claps. Applicants respectfully traverse these rejections, and submit that features of the present invention as recited in the claims are neither disclosed nor suggested by Claps.

Claim 1 is currently the sole independent claim. The grounds of rejection indicate that claim 1 is anticipated by the rack for two cars shown in Figure 35 of Claps. As discussed in Claps at col. 14, line 61 through col. 15, line 60, the rack of Claps has a lower pallet 510, a pair of front columns 512 that are supported by front brackets 513 connected to respective side frame members 514 near a front transverse frame member, and a pair of rear columns 516 that are supported by rear brackets 517 connected to the respective side frame members 514 near a rear end frame member. The brackets support the columns in a manner that enables them to pivot down to lie one above the other beside the side frame member (see col. 14, lines 61-67).

The upper pallet 520 is supported on the front columns 512 by front upper pallet support brackets 534, which permit the front end of the upper pallet to be moved to a selected vertical

position above the lower pallet, permit the slope of the upper pallet to vary to meet the needs of different car models, and accommodate the variation in slope by sliding of the side frame members 522 relative to the front columns 512 (see col. 15, lines 18-25).

Each column 512, 516 is supported against tilting under moderate loads by the bracket 513, 517 when erected, but is also stabilized against tilting from the vertical under high loads by a diagonal brace 560 (see col. 15, lines 56-59).

However, for the reasons that follow, features of claim 1 are neither disclosed nor suggested by the disclosure of Claps. In particular, in the present invention as recited in claim 1, there are “four lifting units disposed in corner zones of the frame units.” The grounds of rejection argue that columns 512 and 516 of the Claps rack read on these four lifting units (see page 3 of the Office Action). Applicants respectfully traverse this rejection. In the present invention, a lifting unit of the four lifting units can include, for example, a piston rod (see item 15 in Figure 2 of the present application). Using a piston rod, each of the four lifting units can be independently lowered or raised (a lifting function), which makes it possible to tilt the upper frame in both a longitudinal and transverse direction.

In contrast, however, columns 512 and 516 in the Claps rack *are not lifting units* since they do not have any lifting function. Rather, these columns are fixed (in fact, suggested to be locked into place - see col. 12, lines 23-25 of a similar embodiment of the Claps rack) and their only suggestion of movement is that they are collapsible onto the lower rack for easier shipping back to their origin when their respective cars are removed at a delivery location. Further, while the grounds of rejection are silent about bracket 534, it is also not a lifting unit. This bracket only *permits* the front end of the upper pallet to be moved up or down relative to the lower pallet

(see col. 15, lines 18-25). Neither the brackets, the columns themselves, nor their combination perform any lifting. Rather, lifting of the Claps rack is done independently of the rack by a lifting hoist or fork lift truck (see col. 16, lines 18-23, and Figure 41B). Therefore, Applicants respectfully submit that the Claps rack neither discloses nor suggests this feature of claim 1. Accordingly, claim 1, as well as claims 2-10, at least based on their dependence on claim 1, are allowable.

Further, claim 2 recites that “the lower frame unit and the upper frame unit are interconnected exclusively via the lifting units.” As discussed above, Claps does not disclose “lifting units” because columns 512 and 516 of the Claps’ rack do not have any lifting function. Further, the diagonal braces 560 are only supports against tilting, and they also do not have not anything to do with a lifting function as in the present invention. Accordingly, claim 2 is allowable for this reason as well.

With respect to claim 9, the grounds of rejection state that the lifting units of Claps are interpreted as being controlled with a control terminal via a central control unit as claimed (see page 4 of the Office Action). However, Applicants submit that this interpretation must have improperly been made in hindsight based on the teachings of the present application since Claps does not disclose a central control unit. As discussed above, Claps teaches that the lifting is independent of the racks themselves and done by a lifting hoist or fork lift truck.

35 U.S.C. § 103(a) Rejection

Claims 3-6 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Claps. These claims are allowable at least based on their dependence on claim 1. Further, the grounds of rejection argue that the columns 512 and 516 of Claps could be interpreted as piston

rods, as recited in claim 3. Applicants respectfully traverse this “interpretation”. In particular, a piston rod would be known by one of ordinary skill in the art as an element which is movable. In contrast, however, columns 512 and 516 of Claps are rigid elements as discussed above, and one of ordinary skill in the art would not substitute piston rods in lieu of the (rigid) columns in the Claps rack. Accordingly, claim 3 is allowable for this reason as well.

35 U.S.C. §112 Rejections

Claims 7 and 10 stand rejected under 35 U.S.C. §112, second paragraph. Applicants have amended these claims to more clearly define the features of these claims. Support for the amendment to claim 10 (Electronic Stability Program), can be found at paragraph [012] of the present specification.

Also, Applicants respectfully request that the Examiner clarify whether claim 7 includes patentable subject matter since its only grounds of rejection are under 35 U.S.C. § 112.

New Claims 11-19.

New independent claims 11 through 19 recite features of the invention that distinguish from Claps for many of the reasons discussed above. Claim 11 recites “lifting means attached to the lower frame unit and connectable to the upper frame that tilt the upper frame.” As discussed, Claps describes that lifting is performed by a lifting hoist or fork lift truck. Of course, there would be no suggestion of attaching this type of device to the lower frame unit of the Claps device.

Claim 16 recites lifting units extendable in an axial direction that tilt the upper frame. As discussed, the lifting unit of the present invention can include a piston rod. In tilting the upper frame, the piston rod would move in an axial direction.

AMENDMENT UNDER 37 C.F.R. § 1.111  
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Other claims recite piston rods that are independently operable. In this way, as also claimed, a vehicle can be titled in at least one of a longitudinal and transverse direction relative to an axis of the vehicle.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Hans BOECK, et al.

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